

The Senate Government Oversight Committee offered the following substitute to HB 544:

A BILL TO BE ENTITLED  
AN ACT

To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to provide that any plan or arrangement established or maintained by two or more accredited independent nonproprietary institutions of higher education located in this state is not subject to the requirements relating to multiple employer self-insured health plans; to provide that the Commissioner of Insurance shall be authorized to allow health reimbursement arrangement only plans that encourage employer financial support of health insurance or health related expenses recognized under the rules of the federal Internal Revenue Service to be approved for sale in connection with or packaged with individual health insurance policies otherwise approved by the Commissioner; to enact the "Georgia Health Marketplace Act"; to establish the Georgia Health Marketplace to provide access to health care products for Georgia consumers; to provide for definitions; to establish the Georgia Health Marketplace Authority; to provide for its membership and powers; to provide for health care products and programs in the Georgia Health Marketplace; to create a marketing trust fund; to provide for limited liability; to provide for consumer complaints; to provide for catastrophic coverage products; to provide for rules and regulations; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by revising subsection (b) of Code Section 33-50-2, relating to a required license for any multiple employer self-insured health plan to transact business in this state and health plans of municipalities, counties, or other political subdivisions, as follows:

"(b) This chapter does not apply to any plan or arrangement established or maintained by municipalities, counties, or other political subdivisions of ~~the~~ this state; any multiple employer self-insured health plan which is not subject to the application of state insurance laws under the provisions of the Employee Retirement Income Security Act of 1974, 29

U.S.C. Section 1001, et seq.; to organizations established under the authority of or receiving funds pursuant to 42 U.S.C. Section 254(b) or 254(c), the federal Public Health Service Act; any other nonprofit organization exempt from federal taxation whose primary purpose is providing access to primary health care services for indigent citizens of Georgia; ~~or to any plan or arrangement established or maintained by a nonprofit educational organization with assets of more than \$100 million for the benefit of the employees of such organization and the employees of any affiliated or associated persons, firms, associations, or corporations which perform functions related to those of such educational organization or of which a majority of the membership of the governing body is composed of employees or members of the governing body of the nonprofit educational organization; or to any plan or arrangement established or maintained, directly or through a legal entity, by two or more accredited independent nonproprietary institutions of higher education located in this state, which such institutions have combined assets of more than \$100 million and are members of the Georgia nonprofit corporation representing a majority of the accredited independent nonproprietary institutions of higher education located in this state, for the benefit of the employees, including retired employees, of:~~

(1) Such institutions;

(2) Any affiliated or associated persons, firms, associations, trusts, or corporations that perform functions similar or related to those of one or more of such institutions or of which a majority of the membership of the governing body is composed of employees or members of the governing body of one or more of such institutions; and

(3) The Georgia nonprofit corporation representing a majority of the accredited independent nonproprietary institutions of higher education located in this state."

## SECTION 2.

Said title is further amended by striking Chapter 51, the "Georgia Basic Health Insurance Plan," in its entirety and inserting in lieu thereof a new Chapter 51 to read as follows:

### "CHAPTER 51

33-51-1.

(a) The Commissioner shall be authorized to allow health reimbursement arrangement only plans that encourage employer financial support of health insurance or health related expenses recognized under the rules of the federal Internal Revenue Service to be approved for sale in connection with or packaged with individual health insurance policies otherwise approved by the Commissioner.

(b) Health reimbursement arrangement only plans that are not sold in connection with or packaged with individual health insurance policies shall not be considered insurance under this title.

(c) Individual insurance policies offered or funded through health reimbursement arrangements shall not be considered employer sponsored or group coverage for purposes of this title, and nothing in this Code section shall be interpreted to require an insurer to offer an individual health insurance policy for sale in connection with or packaged with a health reimbursement arrangement or to accept premiums from health reimbursement arrangement plans for individual health insurance policies."

### SECTION 3.

Said title is further amended by adding a new chapter to read as follows:

#### "CHAPTER 62

33-62-1.

This chapter shall be known and may be cited as the "Georgia Health Marketplace Act."

33-62-2.

For purposes of this chapter, the term:

(1) 'Authority' means the Georgia Health Marketplace Authority established pursuant to Code Section 33-62-3.

(2) 'Board' means the board of directors of the Georgia Health Marketplace Authority.

(3) 'Commissioner' means the Commissioner of Insurance.

(4) 'Fund' means the GHM Marketing Trust Fund, as established in Code Section 33-62-6.

(5) 'GHM' means the Georgia Health Marketplace established pursuant to Code Section 33-62-5.

(6) 'Insurer' means any insurer or nonprofit organization authorized to sell accident and sickness policies, subscriber contracts, certificates, or agreements of any form under Chapters 15, 18, 19, 20, 21, 29, and 30 of this title.

33-62-3.

(a) There is established the Georgia Health Marketplace Authority as a body corporate and politic, an instrumentality of the state, and a public corporation; and by that name the authority may contract and be contracted with and bring and defend actions. The authority shall have perpetual existence.

1 (b) The authority shall be governed by a board of directors composed of ten members as  
2 follows:

3 (1) The executive director of the Georgia Technology Authority;

4 (2) The Commissioner of the Department of Community Health;

5 (3) The Commissioner of Insurance;

6 (4) A physician who is licensed under Chapter 34 of Title 43, appointed by the  
7 Governor;

8 (5) A representative of a health insurance company licensed to offer health insurance  
9 policies in this state, appointed by the Lieutenant Governor;

10 (6) A consumer representative, appointed by the Lieutenant Governor;

11 (7) A health care marketing expert, appointed by the Lieutenant Governor;

12 (8) An agent licensed to offer health insurance policies in this state, appointed by the  
13 Speaker of the House of Representatives;

14 (9) A consumer representative, appointed by the Speaker of the House of  
15 Representatives; and

16 (10) A hospital administrator, appointed by the Speaker of the House of Representatives.

17 The initial members of the board shall be appointed to terms of office beginning July 1,  
18 2008. All members shall serve for terms of three years; provided, however, that for the  
19 purpose of providing for staggered terms, of the Lieutenant Governor's and Speaker's  
20 initial appointments, one each shall be appointed for a term of one year, two years, and  
21 three years, respectively. Any vacancy on the board shall be filled in the same manner as  
22 the original appointment, and any member appointed to fill a vacancy occurring because  
23 of death, resignation, or ineligibility for membership shall serve only for the unexpired  
24 term of the member's predecessor. A member shall be eligible for reappointment.

25 (c) The board shall at its initial meeting and the first meeting of each calendar year  
26 thereafter select from among its members a chairperson and a vice chairperson. Meetings  
27 shall be held at the call of the chairperson or whenever any two members so request.

28 (d) The members of the board who are not public officers shall be entitled to an expense  
29 allowance and reimbursement from funds of the authority for their actual travel expenses  
30 necessarily incurred in the performance of their duties and for each day actually spent in  
31 performance of their duties in the same manner as provided in Code Section 45-7-21.

32 (e) A majority of the members of the board shall constitute a quorum for the transaction  
33 of business of the authority. The vote of at least a majority of the members present at any  
34 meeting at which a quorum is present is necessary for any action to be taken by the board.  
35 No vacancy in the membership of the board shall impair the right of a quorum to exercise  
36 all rights and perform all duties of the board.

1 (f) No member or employer of a member shall be eligible to bid on, or enter into, any  
2 contract let by the authority or receive payment from the authority as an employee,  
3 contractor, consultant, or vendor; provided, however, that this subsection shall not be  
4 construed to prohibit a member of the authority or employee of such member from  
5 submitting health care products for inclusion on the GHM in accordance with established  
6 policies and procedures of the authority.

7 (g) The authority is assigned to the Department of Community Health for administrative  
8 purposes only, as prescribed in Code Section 50-4-3.

9 33-62-4.

10 The authority shall have the following powers:

11 (1) To hire officers, agents, and employees, including an executive director, as necessary  
12 to perform the duties and carry out the powers conferred by this chapter;

13 (2) To have a seal and alter the same at its pleasure;

14 (3) To make and execute contracts, lease agreements, and all other instruments necessary  
15 or convenient to exercise the powers of the authority or to further the public purpose for  
16 which the authority is created;

17 (4) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real or  
18 personal property of every kind and character, or any interest therein, in furtherance of  
19 the public purpose of the authority;

20 (5) To apply for and to accept any gifts or grants or loan guarantees or loans of funds or  
21 property or financial or other aid in any form from the federal government or any agency  
22 or instrumentality thereof, or from the state or any agency or instrumentality thereof, or  
23 from any other source for any or all of the purposes specified in this chapter and to  
24 comply, subject to the provisions of this chapter, with the terms and conditions thereof;

25 (6) To solicit, receive, and review proposals from technology vendors for the  
26 development and implementation of technology to operate and maintain the GHM,  
27 including an Internet website accessible to all Georgians;

28 (7) To identify health care products which fall under the categories set out in  
29 paragraphs (2) through (6) of subsection (b) of Code Section 33-62-5 for inclusion in the  
30 GHM, provided that the authority shall not have the power to directly issue insurance  
31 policies;

32 (8) To suspend, at its sole discretion, products from inclusion in the GHM and  
33 companies and entities from submitting products for inclusion based on evidence of  
34 fraud, provided such suspension or any reinstatement shall occur only upon the written  
35 request of the Commissioner or federal law enforcement authorities;

1 (9) To develop and approve specific measurement tools for consumers to use in  
2 comparing health care products, including brief summaries of deductibles, copayment  
3 requirements, covered providers, benefits, premiums, and coverage limits. To the  
4 maximum extent possible, the authority shall utilize cost and quality measurements  
5 established by the Georgia Health Information Technology and Transparency Advisory  
6 Board;

7 (10) To develop a brief questionnaire of not more than ten questions to enable visitors  
8 to the GHM website to obtain instant approximate price quotes consisting of either  
9 specific prices or price ranges for products they may wish to purchase. Approximate  
10 rates provided by insurers pursuant to such questionnaire shall be used only for  
11 informational purposes and shall create no contractual obligation on the part of an insurer  
12 to offer an individual a policy at such rate prior to completion of medical underwriting  
13 by such insurer. If identical policies are sold by an insurer on the GHM and outside the  
14 GHM, monthly premiums shall be comparable to each other for each policy. Information  
15 provided by consumers through the GHM for purposes of obtaining price quotes on  
16 products shall not be transferred outside the GHM or recorded in written or electronic  
17 form by the GHM;

18 (11) To develop a common battery of medical underwriting questions that can be  
19 uniformly utilized by health insurance companies on a voluntary basis to medically  
20 underwrite policies;

21 (12) To fix and collect fees and charges associated with the operation of the GHM,  
22 including but not limited to listing charges for health insurance companies and licensed  
23 insurance agents to register on the GHM; provided, however, that any fees and charges  
24 collected shall be used only for purposes of promoting the GHM to Georgia consumers  
25 and shall not be used for general administrative expenses associated with the GHM;

26 (13) To administer the GHM Marketing Trust Fund, as established in Code Section  
27 33-62-6;

28 (14) To deposit or invest funds held by it in any state depository or in any investment  
29 which is authorized for the investment of proceeds of state general obligation bonds and  
30 to use for its corporate purposes or redeposit or reinvest interest earned on such funds;

31 (15) To exercise any power granted by the laws of this state to public or private  
32 corporations which is not in conflict with the public purpose of the authority; and

33 (16) To do all things necessary or convenient to carry out the powers conferred by this  
34 chapter.

1 33-62-5.

2 (a) The authority shall establish, operate, and maintain the Georgia Health Marketplace,  
3 which shall serve as an Internet portal for access to health care products which fall under  
4 the categories set out in paragraphs (2) through (6) of subsection (b) of this Code section  
5 and to the PeachCare for Kids Program. The GHM shall also include specific measurement  
6 tools for consumers to use in comparing individual health care products, including brief  
7 summaries of deductibles, copayment requirements, covered providers, benefits, premiums,  
8 financial soundness ratings, and coverage limits.

9 (b) The health care products and programs included in the GHM shall be in one of the  
10 following categories:

11 (1) PeachCare for Kids Program created by Code Section 49-5-273;

12 (2) Initiatives or programs established by the Department of Community Health aimed  
13 at providing accessible health insurance coverage to employees of small businesses in this  
14 state, such as the Health Insurance Partnership;

15 (3) Traditional individual health insurance products sold by licensed Georgia insurers;

16 (4) Individual health care savings accounts, including any health care plan offering  
17 medical savings accounts, health reimbursement arrangement accounts, or health savings  
18 accounts.

19 (5) Health care services provided directly from a physician or hospital which do not  
20 require a health care provider to manage any risk, such as, but not limited to, a set number  
21 of office visits, annual checkups, a set range of imaging services, immunizations, and  
22 services provided on a regular schedule for chronic diseases. Prior to receiving health  
23 care services directly from a physician or hospital pursuant to this paragraph, a consumer  
24 shall be required to sign an acknowledgment and understanding of the following  
25 statement:

26 'I understand I am purchasing a prepaid package of medical services. This package of  
27 services is not health insurance and provides only prepaid services at a discounted rate.

28 Purchasing this package without also purchasing catastrophic coverage insurance may  
29 leave me without coverage for many major medical problems.'

30 These services shall not be treated as insurance products under Georgia law. The  
31 Composite State Board of Medical Examiners shall be responsible for disciplining any  
32 physician or physician acting on behalf of a hospital for unprofessional conduct in  
33 offering or providing such services; and

34 (6) Individual catastrophic coverage products only as authorized pursuant to Code  
35 Section 33-62-8.

36 (c) The GHM shall provide consumers who identify health care products on the GHM the  
37 option of contacting a health insurance company or a licensed insurance agent by telephone

1 or direct electronic referral to the agent or company website when he or she has additional  
2 questions about a product at any point in the selection process, or is ready to purchase a  
3 product. For consumers choosing the licensed insurance agent option, licensed agents  
4 selling the selected plan shall be listed in the order directed by the authority, with that order  
5 being determined by professional qualifications of the agent and the agent's geographical  
6 proximity to the address given by the consumer; provided, however, that the authority may  
7 take into consideration a licensed insurance agent's history of consumer complaints against  
8 such agent in the listed order. The authority shall include on the GHM a description of the  
9 important role of licensed agents in educating consumers on health insurance products.  
10 Each agent listing provided to the consumer shall include a list of the GHM vendor  
11 companies for which the agent is licensed.

12 (d) The provisions of Chapter 21 of this title shall not be deemed to prohibit licensees  
13 thereunder from selling the policies provided for in this Code section.

14 (e) The purchase of an accident and sickness policy or contract under this Code section  
15 shall not preclude the purchaser from purchasing additional limited benefit insurance  
16 policies or contracts.

17 (f) All insurance policies offered for sale on the GHM shall include coverage for the  
18 following procedures which are critical to the early detection of life-threatening diseases:  
19 ovarian cancer screening, colorectal cancer screening, diabetes screening, pap smears,  
20 mammograms, and prostate specific antigen tests. Further, policies offered for sale on the  
21 GHM which include a primary care component shall offer beneficiaries the choice of  
22 designating an obstetrician or gynecologist as their primary care physician.

23 33-62-6.

24 (a) There is created the GHM Marketing Trust Fund as a separate fund in the state  
25 treasury. The trust fund shall be administered by the authority.

26 (b) The trust fund shall consist of such moneys as appropriated by the General Assembly,  
27 fees and charges determined and collected by the authority for the operation of the Georgia  
28 Health Marketplace, which shall be limited to initial listing charges for health insurance  
29 companies and licensed insurance agents to register on the GHM, and private contributions  
30 from any source.

31 (c) State funds received by the authority through appropriations by the General Assembly  
32 shall not be expended by the authority unless the authority collects or receives matching  
33 private funds at a ratio of 1:1 to the state funds through fees, charges, or contributions from  
34 health insurance companies, licensed insurance agents, or other private sources. State  
35 funds not matched within two years shall be returned from the trust fund to the general  
36 fund.



(d) Funds from the trust fund shall be expended only for the purpose of entering into competitively bid contracts for private sector marketing, advertising, and public relations to promote the GHM to Georgia consumers. Funds shall not be expended for general administrative expenses associated with the GHM.

33-62-7.

(a) The authority shall not be liable for any acts or omissions of an insurer related to its participation in the GHM.

(b) Consumer complaints relating to health care products and programs purchased or enrolled in through the GHM shall be handled in the same manner as would be applicable if the consumer purchased or enrolled in the health care product or program through other means.

33-62-8.

(a) Notwithstanding any other provision of law and on and after the effective date of this Code section, catastrophic coverage products may be offered by an insurer for purposes of this chapter only. Such products shall:

(1) Have deductibles in at least a minimum amount as established by the authority; provided, however, that an insurer may set a higher deductible. Such minimum amount shall be equal to the amount established by the United States Department of Treasury as the minimum deductible for high deductible health plans, as it exists on the effective date of this Code section. The authority shall establish and maintain rules governing the adjustments of this figure for purposes of inflation which may be based on the method of adjustment for high deductible health plans established by the United States Department of Treasury or on the Consumer Price Index;

(2) Provide coverage for services or treatment based solely upon a contractual agreement between the insurer and the consumer;

(3) Be offered only through the GHM by participating insurers and agents; and

(4) Be available for purchase only by individuals:

(A) Between the ages of 18 and 25; or

(B) Who certify in writing that they will open, within 60 days of purchase of the catastrophic coverage product, and maintain an active health care savings account capitalized to an amount equal to or greater than the annual deductible of the catastrophic coverage product the individual intends to purchase through the GHM.

Products offered pursuant to this Code section shall not be subject to other Title 33 provisions including but not limited to provisions which require specific state mandated

1 health benefits, which regulate premiums, or which regulate the issuance or cancellation  
2 of policies.

3 (b) Prior to purchasing a catastrophic coverage product pursuant to this chapter, a  
4 consumer shall be required to sign an acknowledgment and understanding of the following  
5 statement:

6 'I understand that the catastrophic coverage product I am purchasing or enrolling in is not  
7 subject to any of the coverage requirements that state law mandates of standard health  
8 insurance plans. I understand that in exchange for paying a lower premium, I may be  
9 responsible for higher out of pocket expenses if I get sick or am in an accident.'

10 (c) An insurer that offers one or more catastrophic coverage products through the GHM  
11 shall also make available for purchase on the GHM at least one individual accident and  
12 sickness insurance policy that contains all state mandated health benefits.

13 (d) The Commissioner may promulgate rules and regulations as necessary to implement  
14 the provisions of this Code section.

15 (e) All products offered for sale on the GHM pursuant to this Code section shall include  
16 coverage for the following procedures which are critical to the early detection of  
17 life-threatening diseases: ovarian cancer screening, colorectal cancer screening, diabetes  
18 screening, pap smears, mammograms, and prostate specific antigen tests. Further, products  
19 offered under this Code section which include a primary care component shall offer  
20 beneficiaries the choice of designating an obstetrician or gynecologist as their primary care  
21 physician.

22 33-62-9.

23 The authority and the Commissioner, as appropriate, shall be authorized to adopt rules and  
24 regulations to effect the implementation of this chapter."

#### 25 **SECTION 4.**

26 This Act shall become effective upon its approval by the Governor or upon its becoming law  
27 without such approval.

#### 28 **SECTION 5.**

29 All laws and parts of laws in conflict with this Act are repealed.